

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Aug 31, 2021**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

KRISTINA T. STRONG,  
Individually and as Administrator of  
the Estate of Matthew W. Strong,  
deceased,

Plaintiff,

v.

HONEYWELL INTERNATIONAL,  
INC., and PNEUMO ABEX, LLC,

Defendants.

NO: 2:20-CV-136-RMP

ORDER DENYING HONEYWELL  
INTERNATIONAL, INC.'S MOTION  
FOR PROTECTIVE ORDER  
REGARDING PLAINTIFF'S  
DESIGNATION OF TESTIMONY

BEFORE THE COURT is Defendant Honeywell International, Inc.'s  
("Honeywell") Motion for Protective Order Regarding Plaintiff's Designation of  
Testimony, ECF No. 125. The Court has reviewed the motion, the record, and is  
fully informed.

This is an asbestos case brought by Kristina Strong, individually and as  
Administrator of the Estate of Matthew T. Strong. Decedent Matthew Strong  
developed peritoneal mesothelioma which Plaintiff alleges was caused by exposure

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TESTIMONY ~ 1

1 to asbestos-containing automotive friction products, including Bendix brand brakes  
2 manufactured by Honeywell. *See* ECF No. 30.

3 Pursuant to the Scheduling Order, on August 19, 2021, Plaintiff served  
4 Honeywell with Plaintiff's designations of deposition testimony as well as  
5 designations of Honeywell's interrogatory responses. *See* ECF No. 29 at 8  
6 ("Designation of substantive, as opposed to impeachment, deposition testimony shall  
7 be by highlighting and shall be served upon opposing counsel, but not filed, by  
8 August 19, 2021.").

9 According to Honeywell, "Plaintiff served Honeywell with one hundred (100)  
10 separate documents, including seventy-nine (79) deposition transcripts,<sup>1</sup> fifteen (15)  
11 sets of exhibits to the deposition testimony designated, and six (6) sets of discovery  
12 responses from other jurisdictions designated against Honeywell." ECF No. 125 at  
13 1–2. Plaintiff purportedly designated testimony from past Honeywell corporate  
14 representatives, testimony from witnesses related to Plaintiff's claims, as well as  
15 testimony from past users of Bendix brakes, co-workers, and eyewitnesses in other  
16 cases (i.e. "no warning witnesses"). ECF No. 140 at 2–4 (citing Fed. R. Civ. P.  
17 32(a)(3)).

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20 <sup>1</sup> Plaintiff withdrew six transcript designations from depositions where Honeywell  
21 was not in attendance. ECF No. 140 at 2–3.

1 The parties stipulated to extending certain deadlines, including Honeywell's  
2 deadline to serve cross-designations and file objections to designated testimony.  
3 ECF Nos. 129, 132.

4 Honeywell requests that the Court order Plaintiff to limit designated testimony  
5 to only the testimony she intends to substantively use at trial in order "to protect  
6 Honeywell from undue burden and expense of reviewing thousands of pages of  
7 deposition testimony." ECF No. 125 at 6. More specifically, Honeywell seeks to  
8 limit Plaintiff to designating testimony from no more than 15 transcripts. *See* ECF  
9 No. 125.

10 Plaintiffs maintains that the "designations are substantive, are directly relevant  
11 to the claims and defenses remaining in this case and are neither duplicative nor  
12 meant for impeachment." ECF No. 140 at 3. Plaintiff further argues that  
13 Honeywell's Motion improperly relies upon Federal Rule of Civil Procedure 26  
14 because this case is past the discovery phase. *Id.*; *see* ECF No. 29 at 4 ("All  
15 discovery shall be completed by April 30, 2021."); *see also* Fed. R. Civ. P. 26(c)(1)  
16 ("The court may, for good cause, issue an order to protect a party or person from  
17 annoyance, embarrassment, oppression, or undue burden or expense including . . .  
18 forbidding inquiry into certain matters, or limiting the scope of disclosure or  
19 discovery to certain matters.").

1 Pursuant to the Scheduling Order, designations should be of substantive, as  
2 opposed to impeachment, deposition testimony. ECF No. 29 at 8. Plaintiff submits  
3 that the designations at issue are substantive. ECF No. 140 at 4.<sup>2</sup>

4 Given Plaintiff's representation that the designations are "short and precise,"  
5 ECF No. 140 at 4, combined with the additional time awarded to Honeywell by the  
6 parties' stipulation to amend deadlines, ECF No. 129, the Court finds that  
7 Honeywell has not shown that responding to Plaintiff's designations pose such an  
8 undue burden to justify issuing a protective order under Rule 26 or limiting Plaintiff  
9 to designating testimony from no more than 15 transcripts.

10 The Court agrees with Plaintiff that Honeywell's remedy at this time is to  
11 substantively oppose Plaintiff's designations. ECF No. 140 at 3. This Order makes  
12 no findings as to the admissibility of any designations by Plaintiff.

13 Accordingly, **IT IS HEREBY ORDERED:** Defendant Honeywell  
14 International, Inc's Motion for Protective Order Regarding Plaintiff's Designation of  
15 Testimony, **ECF No. 125**, is **DENIED**.

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17 <sup>2</sup> Plaintiff concedes that she failed to include certain individuals on her original  
18 trial witness list. ECF No. 140 at 4 n. 2. Plaintiff since filed an Amended Trial  
19 Witness List on August 27, 2021. *See* ECF No. 135 (listing several "no warning  
20 witnesses").

**IT IS SO ORDERED.** The District Court Clerk is directed to enter this Order and provide copies to counsel.

**DATED** August 31, 2021.

*s/ Rosanna Malouf Peterson*  
 ROSANNA MALOUF PETERSON  
 United States District Judge